

REMARKS

The Office Action dated October 22, 2009, has been reviewed and carefully considered. Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 2-13 and 15-22 will be pending in the present application, of which claims 3 and 7 have been amended.

Claims 3-9 and 21 stand rejected under 35 U.S.C. 112

Claims 3-9 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements. The Examiner asserts that such omission amounts to a gap between the necessary structural connections. In particular, the Examiner states that the light sensor element and the sampling capacitor/voltage amplifier are not connected in any way.

Independent claims 3 and 7 have been amended in order to recite that the voltage amplifier is operatively connected to the light sensor element. Applicants submit that the necessary structural connections are now present in those claims.

Applicants submit that the amendments to claims 3 and 7 obviate the Examiner's corresponding rejections with respect to dependent claims 4-6, 8, 9, and 21.

Reconsideration and withdrawal of the rejections of claims 3-9 and 21 under 35 U.S.C. 112 are, therefore, requested.

Double Patenting Rejection

U.S. Application No. 10/597,246 (soon to be U.S. Patent No. 7,652,240)

Claims 3-9, 11-13, 15, 17, and 18 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 3-9, 11-13, 15,

17, and 18, respectively, of co-pending Application No. 10/597,246 (hereinafter “the ‘246 application”). In addition, claims 2, 10, 16, and 19-22 are rejected because they depend from claims 3, 11, 15, or 17.

Applicants would like to bring to the Examiner’s attention the fact that the ‘246 application is set to issue as U.S. Patent No. 7,652,240 on January 26, 2010 (hereinafter “the ‘240 patent”).

As suggested by the Examiner, a Terminal Disclaimer executed by the undersigned Applicants’ representative in compliance with 37 C.F.R. § 1.321(c) is submitted herewith. Because of the imminent issuance of the ‘240 patent, the Terminal Disclaimer submitted herewith disclaims the term of a patent resulting from the present application from extending beyond the term of the ‘240 patent. Accordingly, Applicants respectfully request that the above obviousness-type double patent rejections be withdrawn.

By executing the above-mentioned Terminal Disclaimer, Applicants do not concede that the claims of the ‘240 patent are obvious in view of the claims of the present application. To the contrary, as argued by Applicants in their previous Amendment of July 1, 2009, the claims of the ‘240 patent are directed to an improvement that is patentable over the claims of the present application and the prior art.

The Commissioner is authorized to charge the Terminal Disclaimer fees required under 37 C.F.R. § 1.20(d) to deposit account no. 14-1270.

Summary and Conclusion

In summary, it is submitted that all of the pending claims, claims 2-13 and 15-22, are patentably distinguishable over the references of record. All objections and rejections have been addressed.

It is, therefore, respectfully submitted that the present application is in condition for allowance and a Notice to this effect is earnestly solicited.

Please charge any fees associated with the submission of this paper to Deposit Account No. 14-1270. The Commissioner is also authorized to credit any overpayments to the above-referenced deposit account.

Respectfully submitted,

By: /Charles E. Kosinski/
Charles E. Kosinski
Registration No. 39,254

Mail all correspondence to:

Charles E. Kosinski, Esq.
Philips Intellectual Property & Standards
PO Box 3001
Briarcliff Manor, NY 10510-8001, USA
Phone: (724) 387-3746
e-mail: charles.kosinski@philips.com

Note: The Commissioner is authorized to charge any fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 14-1270.